

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED

OCT 29 2001

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte PAULINA P. GARCIA, JOHN W. LEE, JOHN L. MARSHALL,
DONALD A. MCGOWAN, ANTHONY J. PUTTICK, THOMAS K. SPENCER,
STEPHEN G. STROUD, STEPHEN J. TELFER and MICHAEL J. ZURAW

Appeal No. 1998-0896
Application 08/479,077

ORDER REMANDING TO EXAMINER

On June 16, 1997, appellants submitted an Appeal Brief (Paper No. 10). On September 11, 1997, the examiner mailed an Examiner's Answer (Paper No. 11). On October 27, 1997, applicants filed an Amendment (Paper No. 12). There is no indication in the record that this amendment has been considered. Clarification of the entry status of the Amendment is required. If the Amendment filed October 27, 1997, is entered, appellants' Appeal Brief would be defective for it is no longer accurate in the status of any Amendment filed subsequent to the final rejection, nor does Appellants' Brief contain an accurate

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Appendix. Title 37 CFR § 1.192(c)(9)(1998) requires that the Appendix to the Appeal Brief contain a correct copy of the claims involved in the Appeal.

Accordingly, it is

ORDERED that the application is remanded to the examiner for resolution of the following issues:

- consideration of the amendment filed October 27, 1997;
- notification in writing of said consideration;
- if the amendment is entered notification in writing to appellants for submission of a corrected Appendix to replace the existing defective Appendix; or
- issuance of a supplemental Examiner's Answer by the examiner to officially correct the Appendix; and
- for any further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'Dale M. Shaw', is written over a horizontal line.

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